

(ii) *Special conditions applicable to exports to Country Group B and Country Group D:1.* (See Supplement No. 1 to part 740.) In addition to the general conditions in paragraph (b)(3)(i) of this section, the following conditions apply to exports or reexports of replacements for defective or unacceptable U.S.-origin commodities or software to a destination in Country Group B or Country Group D:1:

(A) By making such an export or re-export, the exporter represents that all the requirements of this paragraph (b) have been met and undertakes to destroy or return the replaced parts as provided in paragraph (b)(3)(ii)(C) of this section.

(B) The defective or otherwise unusable equipment must be replaced free of charge, except for transportation and labor charges. If exporting to the countries listed in Country Group D:1 (except the PRC), the exporter shall replace the commodity or software within the warranty period or within 12 months of its shipment to the ultimate consignee in the country of destination, whichever is shorter.

(C) The commodity or software to be replaced must either be destroyed abroad or returned to the United States, or to a foreign firm in Country Group B that is under the effective control of the U.S. exporter, or to the foreign firm that is providing the replacement part or equipment. The destruction or return must be effected before, or promptly after, the replacement item is exported from the United States.

(D) A party reexporting replacements for defective or unacceptable U.S.-origin equipment must ensure that the commodities or software being replaced were shipped to their present location in accordance with U.S. law and continue to be legally used.

[61 FR 64279, Dec. 4, 1996. Redesignated at 61 FR 68579, Dec. 30, 1996, and amended at 63 FR 50522, Sept. 22, 1998]

§ 740.11 Governments and international organizations (GOV).

This Licenses Exception authorizes exports and reexports for international nuclear safeguards; U.S. government agencies or personnel, and agencies of cooperating governments.

(a) *International safeguards*—(1) *Scope.* You may export and reexport commodities or software to the International Atomic Energy Agency (IAEA) and the European Atomic Energy Community (Euratom), and reexports by IAEA and Euratom for official international safeguard use, as follows:

(i) Commodities or software consigned to the IAEA at its headquarters in Vienna, Austria, or field offices in Toronto, Ontario, Canada or Tokyo, Japan for official international safeguards use. The IAEA is an international organization that establishes and administers safeguards designed to ensure that special nuclear materials and other related nuclear facilities, equipment, and material are not diverted from peaceful purposes to non-peaceful purposes.

(ii) Commodities or software consigned to the Euratom Safeguards Directorate in Luxembourg, Luxembourg for official international safeguards use. Euratom is an international organization of European countries with headquarters in Luxembourg. Euratom establishes and administers safeguards designed to ensure that special nuclear materials and other related nuclear facilities, equipment, and material are not diverted from peaceful purposes to non-peaceful purposes.

(iii) Commodities consigned to IAEA or Euratom may be reexported to any country for IAEA or Euratom international safeguards use provided that IAEA or Euratom maintains control of or otherwise safeguards the commodities and returns the commodities to the locations described in paragraphs (a)(1)(i) and (a)(1)(ii) of this section when they become obsolete, are no longer required, or are replaced.

(iv) Commodity or software shipments may be made by commercial companies under direct contract with IAEA or Euratom, or by Department of Energy National Laboratories as directed by the Department of State or the Department of Energy.

(v) The monitoring functions of IAEA and Euratom are not subject to the restrictions on prohibited safeguarded nuclear activities described in § 744.2(a)(3) of the EAR.

(vi) When commodities or software originally consigned to IAEA or

Euratom are no longer in IAEA or Euratom official safeguards use, such commodities may only be disposed of in accordance with the regulations in the EAR.

(2) The following items controlled for national security (NS) reasons under Export Control Classification Numbers (ECCNs) identified on the Commerce Control List may not be exported or re-exported under this License Exception to destinations other than Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom: 1C001, 1C012, 5A001.b.9, 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.7, 6A001.a.2.b, 6A001.a.2.e.1, 6A001.a.2.e.2, 6A002.a.1.c, 6A008.1.3., 6B008, 8A001.b., 8A001.d., 8A002.o.3.b., 9A011; and

(i) "Composite" structures or laminates controlled by 1A002.a., having an organic "matrix" and made from materials listed under 1C010.c. or 1C010.d.; and

(ii) "Digital" computers controlled by 4A003.b. and having a CTP exceeding 10,000 MTOPS; and

(iii) "Electronic assemblies" controlled by 4A003.c. and capable of enhancing performance by aggregation of "computing elements" so that the CTP of the aggregation exceeds 10,000 MTOPS; and

(iv) Processing equipment controlled by 6A001.a.2.c. and specially designed for real time application with towed acoustic hydrophone arrays; and

(v) Bottom or bay cable systems controlled by 6A001.a.2.e.3 and having processing equipment specially designed for real time application with bottom or bay cable systems; and

(vi) "Software", as follows:

(A) Controlled by 4D001, specially designed for the "development" or "production" for items controlled by 4A003.b or .c, as defined by paragraphs (a)(2)(ii) and (iii) of this section; and

(B) Controlled by 5D001.a, specially designed for items controlled by 5A001.b.9; and

(C) Controlled by 6D001 for items controlled by 6A008.1.3 or 6B008; and

(D) Controlled by 6D003.a; and

(E) Controlled by 7D003.a or 7D003.b; and

(F) Controlled by 8D001, specially designed for the "development" or "production" of equipment controlled by 8A001.b, 8A001.d, or 8A002.o.3.b; and

(G) Controlled by 9D001, specially designed for the "development" of equipment or "technology" controlled by 9A011, 9E003.a.1, or by 9E003.a.3, for items controlled by 1A002.a, as described in paragraph (a)(2)(i) of this section; and

(H) Controlled by 9D002 for "software" specially designed for the "production" of equipment controlled by 9A011; and

(I) Controlled by 9D004.a or .c.

(3) No encryption items controlled for EI reasons under ECCNs 5A002, 5D002, or 5E002 may be exported under the provisions of this paragraph (a).

(b) *Governments*—(1) *Scope*. The provisions of paragraph (b) authorize exports and reexports of the items listed in paragraph (b)(2) of this section to personnel and agencies of the U.S. Government or agencies of cooperating governments.

(2) *Eligibility*—(i) *Items for personal use by personnel and agencies of the U.S. Government*. This provision is available for items in quantities sufficient only for the personal use of members of the U.S. Armed Forces or civilian personnel of the U.S. Government (including U.S. representatives to public international organizations), and their immediate families and servants. Items for personal use include household effects, food, beverages, and other daily necessities.

(ii) *Items for official use by personnel and agencies of the U.S. Government*. This provision is available for items consigned to and for the official use of any agency of the U.S. Government.

(iii) (A) *Items for official use within national territory by agencies of cooperating governments*. This License Exception is available for all items consigned to and for the official use of any agency of a cooperating government within the territory of any cooperating government, except items described in paragraph (a) to Supplement No. 1 of this section:

(B) *Reporting requirements*. See § 743.1 of the EAR for reporting requirements for exports of certain items under this paragraph (b)(2)(iii).

(iv) (A) *Diplomatic and consular missions of a cooperating government.* This License Exception is available for all items consigned to and for the official use of a diplomatic or consular mission of a cooperating government located in any country in Country Group B (see Supplement No. 1 to part 740), except items described in paragraph (b) of Supplement No. 1 of this section.

(B) *Reporting requirements.* See § 743.1 of the EAR for reporting requirements for exports of certain items under this paragraph (b)(2)(iv).

(3) *Definitions.* (i) *Agency of the U.S. Government* includes all civilian and military departments, branches, missions, government-owned corporations, and other agencies of the U.S. Government, but does not include such national agencies as the American Red Cross or international organizations in which the United States participates such as the Organization of American States. Therefore, shipments may not be made to these non-government national or international agencies, except as provided in paragraph (b)(2)(i) of this section for U.S. representatives to these organizations.

(ii) *Agency of a cooperating government* includes all civilian and military departments, branches, missions, and other governmental agencies of a cooperating national government. Cooperating governments are the national governments of countries listed in Country Group A:1 (see Supplement No. 1 to part 740) and the national governments of Argentina, Austria, Finland, Hong Kong, Ireland, Korea (Republic of), New Zealand, Singapore, Sweden, Switzerland, and Taiwan.

SUPPLEMENT NO. 1 TO § 740.11—ADDITIONAL RESTRICTIONS ON USE OF LICENSE EXCEPTION GOV

(a) Items for official use within the national territory by agencies of cooperating governments. License Exception GOV is available for all items consigned to and for the official use of any agency of a cooperating government within the territory of any cooperating government, except:

(1) Items identified on the Commerce Control List as controlled for national security (NS) reasons under Export Control Classification Numbers

(ECCNs) as follows for export or reexport to destinations other than Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, or the United Kingdom: 1C001, 1C012, 5A001.b.9, 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.7, 6A001.a.2.b, 6A001.a.2.e.1, 6A001.a.2.e.2, 6A002.a.1.c, 6A008.1.3., 6B008, 8A001.b., 8A001.d., 8A002.o.3.b., 9A011; and

(i) “Composite” structures or laminates controlled by 1A002.a., having an organic “matrix” and made from materials listed under 1C010.c. or 1C010.d.; and

(ii) “Digital” computers controlled by 4A003.b. and having a CTP exceeding 10,000 MTOPS; and

(iii) “Electronic assemblies” controlled by 4A003.c. and capable of enhancing performance by aggregation of “computing elements” so that the CTP of the aggregation exceeds 10,000 MTOPS; and

(iv) Processing equipment controlled by 6A001.a.2.c. and specially designed for real time application with towed acoustic hydrophone arrays; and

(v) Bottom or bay cable systems controlled by 6A001.a.2.e.3 and having processing equipment specially designed for real time application with bottom or bay cable systems;

(vi) “Software”, as follows:

(A) Controlled by 4D001, specially designed for the “development” or “production” for items controlled by 4A003.b or .c, as defined by paragraphs (a)(1)(ii) and (iii) of this Supplement; and

(B) Controlled by 5D001.a, specially designed for items controlled by 5A001.b.9; and

(C) Controlled by 6D001 for items controlled by 6A008.1.3 or 6B008; and

(D) Controlled by 6D003.a; and

(E) Controlled by 7D003.a or 7D003.b; and

(F) Controlled by 8D001, specially designed for the “development” or “production” of equipment controlled by 8A001.b, 8A001.d, or 8A002.o.3.b; and

(G) Controlled by 9D001, specially designed for the “development” of equipment or “technology” controlled by 9A011, 9E003.a.1, or by 9E003.a.3, for

items controlled by 1A002.a, as described in paragraph (a)(1)(i) of this Supplement; and

(H) Controlled by 9D002 for “software” specially designed for the “production” of equipment controlled by 9A011; and

(I) Controlled by 9D004.a or .c.

(vii) “Technology”, as follows:

(A) Controlled by 5E001.a for items controlled by 5A001.b.9 or 5D001.a; and

(B) Controlled by 1E001 for items controlled by 1A002.a, 1C001, or 1C102 as described by paragraph (a)(1)(i) of this Supplement; and

(C) Controlled by 6E001 for the “development” of equipment or “software” in 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.7, 6A001.a.2.b, 6A001.a.2.c, 6A001.a.2.3, 6A002.a.1.c, 6A008.1.3, or 6B008, as described in paragraph (a)(1) of this Supplement; and

(D) Controlled by 6E002 for the “production” of equipment controlled by 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.7, 6A001.a.2.b, 6A001.a.2.c, 6A001.a.2.3, 6A002.a.1.c, 6A008.1.3, or 6B008, as described in paragraph (a)(1) of this Supplement; and

(E) Controlled by 8E001 for items controlled by 8A001.b, 8A002.o.3.b, or 8A001.d; and

(F) Controlled by 9E001 for items controlled by 9A011, 9D001, or 9D002; and

(G) Controlled by 9E002 for items controlled by 9A011; and

(H) Controlled by 9E003.a.1; and

(I) Controlled by 9E003.a.3 for items controlled by 1A002.a as described in paragraph (a)(1) of this Supplement.

(2) Items identified on the Commerce Control List as controlled for missile technology (MT), chemical and biological warfare (CB), or nuclear non-proliferation (NP) reasons;

(3) Regional stability items controlled under Export Control Classification Numbers (ECCNs) 6A002, 6A003, 6E001, 6E002, 7D001, 7E001, 7E002, 7E101, 9A018, 9D018 and 9E018 as described in 742.6(a) of the EAR; or

(4) Encryption items controlled for EI reasons as described in the Commerce Control List.

(b) *Diplomatic and consular missions of a cooperating government.* License Exception GOV is available for all items consigned to and for the official use of a diplomatic or consular mission of a

cooperating government located in any country in Country Group B (see Supplement No. 1 to part 740), except:

(1) Items identified on the Commerce Control List as controlled for national security (NS) reasons under Export Control Classification Numbers (ECCNs) as follows for export or reexport to destinations other than Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, or the United Kingdom: 1C001, 1C012, 5A001.b.9, 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.7, 6A001.a.2.b, 6A001.a.2.e.1, 6A001.a.2.e.2, 6A002.a.1.c, 6A008.1.3., 6B008, 8A001.b., 8A001.d., 8A002.o.3.b., 9A011; and

(i) “Composite” structures or laminates controlled by 1A002.a., having an organic “matrix” and made from materials listed under 1C010.c. or 1C010.d.; and

(ii) “Digital” computers controlled by 4A003.b. and having a CTP exceeding 10,000 MTOPS; and

(iii) “Electronic assemblies” controlled by 4A003.c. and capable of enhancing performance by aggregation of “computing elements” so that the CTP of the aggregation exceeds 10,000 MTOPS; and

(iv) Processing equipment controlled by 6A001.a.2.c. and specially designed for real time application with towed acoustic hydrophone arrays; and

(v) Bottom or bay cable systems controlled by 6A001.a.2.e.3 and having processing equipment specially designed for real time application with bottom or bay cable systems;

(vi) “Software”, as follows:

(A) Controlled by 4D001, specially designed for the “development” or “production” for items controlled by 4A003 .b or .c, as defined by paragraphs (b)(1) (ii) or (iii) of this Supplement; and

(B) Controlled by 5D001.a, specially designed for items controlled by 5A001.b.9; and

(C) Controlled by 6D001 for items controlled by 6A008.1.3 or 6B008; and

(D) Controlled by 6D003.a; and

(E) Controlled by 7D003.a or 7D003.b; and

(F) Controlled by 8D001, specially designed for the “development” or “production” of equipment controlled by 8A001.b, 8A001.d, or 8A002.o.3.b; and

(G) Controlled by 9D001, specially designed for the “development” of equipment or “technology” controlled by 9A011, 9E003.a.1, or by 9E003.a.3, for items controlled by 1A002.a, as described in paragraph (b)(1)(i) of this Supplement; and

(H) Controlled by 9D002 for “software” specially designed for the “production” of equipment controlled by 9A011; and

(I) Controlled by 9D004 .a or .c.

(vii) “Technology”, as follows:

(A) Controlled by 5E001.a for items controlled by 5A001.b.9 or 5D001.a; and

(B) Controlled by 1E001 for items controlled by 1A002.a, 1C001, or 1C102 as described in paragraph (b)(1) of this Supplement; and

(C) Controlled by 6E001 for the “development” of equipment or “software” in 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.7, 6A001.a.2.b, 6A001.a.2.c, 6A001.a.2.3, 6A002.a.1.c, 6A008.1.3, or 6B008, as described in paragraph (b)(1) of this Supplement; and

(D) Controlled by 6E002 for the “production” of equipment controlled by 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.7, 6A001.a.2.b, 6A001.a.2.c, 6A001.a.2.3, 6A002.a.1.c, 6A008.1.3, or 6B008, as described in paragraph (b)(1) of this Supplement; and

(E) Controlled by 8E001 for items controlled by 8A001.b, 8A002.o.3.b, or 8A001.d; and

(F) Controlled by 9E001 for items controlled by 9A011, 9D001, or 9D002; and

(G) Controlled by 9E002 for items controlled by 9A011; and

(H) Controlled by 9E003.a.1; and

(I) Controlled by 9E003.a.3 for items controlled by 1A002.a as described in paragraph (b)(1)(i) of this Supplement.

(2) Items identified on the Commerce Control List as controlled for missile technology (MT), chemical and biological warfare (CB), or nuclear non-proliferation (NP) reasons;

(3) Regional stability items controlled under Export Control Classification Numbers (ECCNs) 6A002, 6A003, 6E001, 6E002, 7D001, 7E001, 7E002, 7E101, 9A018, 9D018 and 9E018 as described in 742.6(a) of the EAR; or

(4) Encryption items controlled for EI reasons as described in the Commerce Control List.

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§ 740.12 Gift parcels and humanitarian donations (GFT).

(a) *Gift parcels*—(1) *Scope*. The provisions of paragraph (a) authorize exports and reexports of gift parcels by an individual (donor) addressed to an individual, or a religious, charitable or educational organization (donee) located in any destination for the use of the donee or the donee's immediate family (and not for resale). The gift parcel must be provided free of charge to the donee. However, payment by the donee of any handling charges or of any fees levied by the importing country (e.g., import duties, taxes, etc.) is not considered to be a cost to the donee for purposes of this definition of “gift parcel.”

NOTE TO PARAGRAPH (a) OF THIS SECTION: A gift parcel, within the context of this paragraph (a), does not include multiple parcels exported in a single shipment for delivery to individuals residing in a foreign country. Such multiple gift parcels, if subject to the General Prohibitions described in § 734.2(b) of the EAR, must be licensed by BXA. (See Supplement No. 2 to part 748 of the EAR for licensing of multiple gift parcels).

(2) *Commodity, value and other limitations*—(i) *Eligible commodities*. The eligible commodities are as follows:

(A) The commodity must not be controlled for chemical and biological weapons (CB), missile technology (MT), national security (NS), or nuclear proliferation (NP) (see Commerce Control List, part 774 of the EAR); and

(B) The commodity must be of a type and in quantities normally given as gifts between individuals.

(I) For Cuba, the only commodities that may be included in a gift parcel are the following items: food, vitamins, seeds, medicines, medical supplies and devices, hospital supplies and equipment, equipment for the handicapped, clothing, personal hygiene items, veterinary medicines and supplies, fishing equipment and supplies, soap-making